

INTERIOR BOARD OF INDIAN APPEALS

Estate of Michael M. Delia

53 IBIA 136 (04/20/2011)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS INTERIOR BOARD OF INDIAN APPEALS 801 NORTH QUINCY STREET SUITE 300 ARLINGTON, VA 22203

ESTATE OF MICHAEL M. DELIA)	Order Docketing and Dismissing Appeal
)	Docket No. IBIA 11-051
)	April 20, 2011

Leroy L. Oenga, Jr. (Leroy) and Emma Kinneeveauk (Appellants), jointly appealed to the Board of Indian Appeals (Board) from an Order Denying Rehearing (Rehearing Order) entered on December 22, 2010, by Indian Probate Judge (IPJ) Michael J. Stancampiano in the estate of Michael M. Delia (Decedent), deceased Alaska Native, Probate No. P000068143IP.¹ The Rehearing Order rejected requests for rehearing filed by Leroy Oenga, Sr., and Leroy, finding that neither of them had standing to seek rehearing because neither was named as a beneficiary in a March 25, 1999, will (1999 will) that the IPJ understood the two to support. The Rehearing Order left in place a May 25, 2010, Order Approving Will and Decree of Distribution, which approved a July 7, 2006, will (2006 will) executed by Decedent. The 2006 will directed that Decedent's estate be distributed to Joseph Delia (Joe), his brother. Appellants, a nephew and a niece of Decedent, appealed the Rehearing Order to the Board, alleging that Joe coerced Decedent into signing the 2006 will and that Decedent intended to leave everything to Appellants, and had executed an even earlier will, either in 1994 or 1996.²

On receipt of the appeal, the Board ordered Appellants, jointly or individually, to serve copies of the notice of appeal on the IPJ and other interested parties, as required by

¹ The appeal was forwarded to the Board by the Inupiat Community of the Arctic Slope (ICAS), and consisted of statements by each Appellant and a photocopy of a statement by Piquk N. Oenga, a niece of Decedent. The Board initially identified Piquk as an appellant, but subsequently learned that she died before the Rehearing Order was issued, and thus it appears that Appellants or ICAS included a copy of an earlier statement signed by Piquk as a statement in support of the appeal.

² Appellants did not allege that they had located the earlier will; they only alleged that they believed it existed.

43 C.F.R. §§ 4.310(b) and 4.323. The Board's order required Appellants to inform the Board by March 10, 2011, that they had served the necessary parties. The order further informed Appellants that if they failed to respond, their appeal might be summarily dismissed without further notice.

The U.S. Postal Service's Track-and-Confirm service on its web site indicates that all of the copies of the Board's order that were sent to Appellants were received in February of 2011.

The Board has received no response from Appellants.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Board dockets but dismisses this appeal for failure to prosecute.

	I concur:	
// original signed	// original signed	
Steven K. Linscheid	Debora G. Luther	
Chief Administrative Judge	Administrative Judge	